

# Notice of Allowability

Application No.

09/826,498

Examiner

Gina C. Yu

Applicant(s)

BRANDT ET AL.

Art Unit

1617

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to appeal brief filed on July 31, 2006.
2. ☒ The allowed claim(s) is/are 19-25, 27-33 which are renumbered to claims 1-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

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### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Cancel claim 33.

Authorization for this examiner's amendment was given in a telephone interview with Karen Klumas on October 16, 2006.

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claim 19 requires 0.04-1.5 % of (a) a polymer comprising vinyl caprolactam, methacrylamidopropyl dimethylamine, vinylpyrrolidone monomers; and (b) hydroxyethyl cellulose; in (c) alcoholic carrier chosen from methanol, ethanol, N-propanol, isopropanol, or the mixture thereof; wherein the ratio of the polymer and hydroxyethyl cellulose is 1:2.2 to 1:0.4.

Peffly (US 5985294) teaches a hair styling composition comprising 0.01-20 % of a non-silicone hair styling polymer and organopolysiloxane microemulsion. As a specific example of a formulation comprising a polyvinylpyrrolidone copolymer and hydroxyethyl cellulose, the reference teaches a formulation comprising 2 wt % of polyvinylpyrrolidone, 3 wt % of PVP/vinyl acetate copolymer, and 1 wt % of hydroxy ethyl cellulose. However, Peffly fails

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to teach the holding polymer (a) that are recited in the present claim 19, which comprises vinyl caprolactam, methacrylamidopropyl dimethylamine and vinylpyrrolidone in the specified weight ratios. While Samain et al. (US 6511651) and Maurin et al. (US 6403542) teach that the holding polymer (a) is a well known hair styling polymer, the combined teachings of the references still do not teach or suggest the specific weight amount of the terpolymer or the weight ratio between the terpolymer and hydroxyethyl cellulose as claimed by applicants. For this reason, claims 19-25, 29, and 31 are viewed allowable over the prior arts.

With respect to claims 27, 28, 30, and 32, claim 27 requires 0.04-1.5 % of (a) a polymer comprising methacrylamidopropyl dimethylamine, vinylpyrrolidone monomers; and (b) a nonionic dextran; in (c) alcoholic carrier chosen from methanol, ethanol, N-propanol, isopropanol, or the mixture thereof; wherein the ratio of the (a) and (b) polymers is 1:2.2 to 1:0.2.

Claim 27, 28, 30, and 32 are allowable, as none of the prior arts teaches nonionic dextran used in combination with the hair holding polymer (a) in the specified ratio as required by applicants.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-

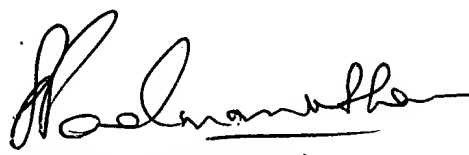
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272-8605. The examiner can normally be reached on Monday through Friday, from 8:00 AM until 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gina C. Yu  
Patent Examiner



**SREENI PADMANABHAN**  
SUPERVISORY PATENT EXAMINER